



Policy for Whistleblowing

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Related Documents:	<ul style="list-style-type: none"> • Disciplinary Policy and Procedure • Records Management Policy • Complaints Procedures Policy • Data Protection Policy • Public Interest Disclosure Act 1998 • Employment Rights Act 1996 • ESFA ‘Academy trust handbook’ • DfE ‘Keeping children safe in education’ • GOV.UK (2012) ‘Whistleblowing for employees’ • Sir Robert Francis (2015) ‘Freedom to speak up report’
References:	

Revision History

Version	Date	Summary of Revision	Revision Author
2.1	11/12/18	Pg. 4 Para 1 – addition, last sentence and bullets Pg. 5 Bullet 6 – revised to H&S concern Pg. 6 Headings – Confidentiality and Outcome added Pg. 7 Para 4 – addition; removed point on media	KVR
3	Nov ‘20	Reviewed – no revisions needed. Recommend for Business and Audit Committee approval. Website link updated on pg. 7	CJH
4	June ‘23	Reviewed and additions in BLUE	CJH

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Policy Statement

At Edukos Trust we strive to be: **EXCEPTIONAL. TOGETHER.** Creating great schools, ensuring better lives for all who we serve through our 3 core values:

- **Friendly**
- **Growth**
- **Trusted**

Purpose

As a Trust we recognise that at times employees may be concerned with the way in which the organisation conducts its business or an employee's behaviour or conduct. Of course, the best way for these concerns to be addressed is by raising them, in the first instance, with the employee's line manager. If this does not resolve the issue this policy is there to support the employee in being able to make a difference.

This policy will:

- Give confidence to members of staff when raising concerns about conduct or practice that is potentially illegal, corrupt, improper, unsafe or unethical, or which amounts to malpractice or is inconsistent with school standards and policies.
- Provide members of school staff with avenues to raise concerns.
- Ensure that members of staff receive a response to the concerns they have raised and feedback on any action taken.
- Offer assurance that members of staff are protected from reprisals or victimisation for whistleblowing action undertaken in good faith and within the meaning of the PIDA (The Public Interest Disclosure Act 1998).

Scope

Under this policy, any of the following can raise a concern:

- Employees of the school
- Voluntary workers working with the school
- Trainees, such as student teachers

If the concern is of a Safeguarding nature, a separate policy and procedure is in place for this.

Responsibilities

The **Trust Board and the CEO** are responsible for monitoring the effectiveness of this policy and undertaking any necessary reviews, e.g. in relation to good practice recommendations or changes in legislation. They will also ensure that a consistent approach to Policy for Whistleblowing is applied across the Trust. In addition, they will:

- Establish and agree the whistleblowing procedure.
- Ensure the agreed whistleblowing procedure is published on the trust's website.
- Ensure all members of the school community have access to this policy.
- Investigate, in liaison with the CEO/head teacher, any concerns that are raised.
- Ensure this policy provides an open and transparent framework where employees of the trust can raise their concerns.
- Take the necessary action against members of staff following an investigation into any alleged malpractice.

The **Head Teachers** are responsible for:

- Ensuring all members of staff have read and understood this policy.
- Receiving, investigating and responding to any concerns that have been raised by school staff.
- Being the first point of contact regarding whistleblowing.

Employees will be responsible for:

- Raising any concerns that meet the definitions in the [‘What is Whistleblowing?’](#) section of this policy.
- Being truthful and reasonable with any concerns that they have.
- Not raising malicious or unfounded concerns.

Equality and Diversity

Edukos Trust is committed to:

- Promoting equality and diversity in its policies, procedures and guidelines;
- Ensuring staff are protected from unlawful direct or indirect discrimination resulting from a protected characteristic (e.g. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).
- Delivering high quality teaching and services that meet the diverse needs of its children and its workforce, ensuring that no individual or group is disadvantaged

What is 'whistleblowing?'

Whistleblowing inside the work place is the term used to describe reporting by employees or ex-employees, of wrongdoing on the part of management, the Trust/Governing Board or by fellow employees. Wrongdoing may include for example, fraud, corruption, malpractice, breach of health and safety law, any other illegal or unethical act or breaches of the Academy Code of Conduct. Employees may, for this purpose include, for example, contractors and agency workers.

As outlined by the PIDA, **qualifying disclosures** pertain to when any of the following takes place:

- A criminal offence has been committed, is likely to be committed or is being committed
- A person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject
- A miscarriage of justice has occurred, is occurring or is likely to occur
- The health or safety of any individual has been, is being or is likely to be endangered
- The environment has been, is being or is likely to be damaged
- Information tending to show any matter falling within any of the preceding points has been, is being or is likely to be deliberately concealed

In the public interests means that an individual acted outside of their own personal interest – they acted for more than personal gain. It is not necessary for the disclosure to be of interest to the entire public. The following considerations are often used as a test to establish whether something is within the scope of public interest:

- The number of people in the group whose interests the disclosure served
- The nature of the interests and the extent by which individuals are affected by the wrongdoing disclosed
- The nature of the wrongdoing disclosed
- The identity of the alleged wrongdoer

Blacklisting refers to an individual who is being refused work because they are viewed as a whistleblower.

Grievances involve someone filing a complaint because they personally have been mistreated in some way – the person making the complaint will have a direct interest in the outcome. It is important to understand the difference between raising a grievance and blowing the whistle.

Protecting the Whistleblower

Under the Public Interest Disclosure Act 1998, a Whistleblower is protected from detriment and unfair dismissal. The Trust will support and not discriminate against concerned employees who apply the Whistleblowing procedure, provided any claim is made in good faith. **Any member of staff who victimises or harasses a member of staff as a result of their having raised a concern in accordance with this policy will be dealt with under the school's Disciplinary Policy and Procedure.**

The procedure

- Any issue raised will be kept confidential while the procedure is being used.
- The Representor (the person raising the concern) should raise their concern with their line manager. This may be done orally or in writing.

- However, if the concern relates to the Representor's line manager or any person to whom he or she reports, other than the head teacher, the Representor should raise the issue with the head teacher;
- If the concern relates to the head teacher, the Representor should raise the matter with the Chair of the Governing Board;
- If the concern relates to the CEO, the representor should raise the matter with the Chair of Trustees;

When individuals raise their concern, they will include the following information as far as possible:

- The background and history of the concern
- Any relevant names, dates and places
- The reasons for the concern

The trust encourages individuals to let their identity be known when they raise concerns, as anonymous concerns can be challenging to investigate.

The person with whom the matter is raised is referred to as the "Assessor";

The Assessor will:

- Interview the Representor as soon as possible within seven working days, in confidence. Early interview will be essential if the concern relates to an immediate danger e.g. a health and safety matter where risk of serious injury/risk to life is possible.
- Obtain as much information as possible from the Representor about the grounds for the belief of wrongdoing;
- Consult with the Representor about further steps which could be taken;
- Advise the Representor of the appropriate route if the matter does not fall under this Procedure;
- Report all matters raised under this procedure to the Chair of the Governing Body or Chair of Trustees, as appropriate;
- At the interview with the Assessor, the Representor may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a member of the school or trust staff to take notes.

The Assessor may at any time disclose the matter to a professionally qualified lawyer for the purpose of taking legal advice. The Assessor may also discuss the issue, in confidence, to other suitable professionals, such as independent HR consultants or Trust or school governance providers in order to assess the nature of the case and to inform the outcome of the investigation.

Promptly within ten working days of the interview, the Assessor will recommend one or more of the following:

- The matter be further investigated internally by the school or Trust;
- The matter be further investigated by external consultants appointed by the school or academy;
- The matter be reported to an external agency;
- Disciplinary proceedings be implemented against an employee;
- The route for the Representor to pursue the matter if it does not fall within this procedure; or
- That no further action is taken by the school or Trust.

The grounds on which no further action is taken include:

- The Assessor is satisfied that, on the balance of probabilities, there is no evidence that wrongdoing within the meaning of this procedure has occurred, is occurring or is likely to occur;
- The Assessor is satisfied that the Representor is not acting in good faith;

- The matter is already (or has been) the subject of proceedings under one of the school's or Trust's other procedures or policies;
- The matter concerned is already (or has been) the subject of legal proceedings or has already been referred to an external agency.

The recommendation of the Assessor will be made to the head teacher. However, should it be alleged that the head teacher is involved in the alleged wrongdoing; the recommendation will be made to the Governing Board. Should it be alleged that the CEO is involved in the alleged wrongdoing; the recommendation will be made to the Board of Trustees. The Head Teacher, Chair of the Governing Board or Chair of the Board of Trustees, as appropriate, will ensure that the recommendation is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Governing Board or Board of Trustees.

Outcome

The conclusion of any agreed investigation will be reported by the Assessor to the Representor promptly within twenty-eight working days of the initial interview. All responses to the Representor will be made in writing and sent to the Representor's home address.

If the Representor has not had a response within the above time limit or such reasonable extension as the school or Trust requires, the Representor may go to an appropriate external agency, under Informing External Agencies, but will inform the Assessor before doing so. The Representor may at any time disclose the matter on a legally privileged basis to a professionally qualified lawyer for the purpose of taking legal advice.

Confidentiality

The Representor's identity will be kept confidential unless the Representor otherwise consents or unless there are grounds to believe that the Representor has acted maliciously. In the absence of such consent or grounds, the Assessor will not reveal the identity of the Representor except:

- Where the Assessor is under a legal obligation to do so;
- Where the information is already in the public domain; or
- On a legally privileged basis to a professionally qualified lawyer for the purpose of obtaining legal advice.

Confidential employee enquiries

Employees may, on a confidential basis seek prior guidance from the head teacher or CEO if they wish to establish whether any course of conduct on their part or on the part of another employee may amount to wrongdoing under these procedures. Such enquiry shall be kept confidential. The head teacher or CEO will attempt to provide guidance on the basis of the information provided, but such guidance shall not prejudice the rights of the school or Trust or any person under these procedures.

Malicious accusations

A deliberately false or malicious accusation made by a Representor is a disciplinary offence and will be dealt with under the Trust's disciplinary procedure, as well as potentially exposing the Representor to legal liability.

Appeals Process

If no action is to be taken and/or the individual is not satisfied with the way the matter has been handled, they can make a complaint under the school's [Complaints Procedure Policy](#).

Unfair treatment

An individual can take a case to an employment tribunal if they feel that they have been treated unfairly as a result of whistleblowing. Further information can be sought from the [Citizen's Advice Bureau](#), the whistleblowing charity [Protect](#), or from an individual's trade union.

Any claims of unfair dismissal needs be made within [three months](#) of the investigation ending.

Informing external agencies

Within the school or Trust, all staff have a duty of confidentiality. The duty of confidentiality is implied by the law in every contract of employment and prohibits employees from publicly disclosing employers' confidential information, unless it is in the public interest that the information is disclosed or unless the school or Trust fails to follow required procedures. Other legal restrictions on the disclosure of information, for example under data protection legislation, may also apply.

Employees are encouraged to raise issues directly with the Trust and be confident that they will be taken seriously and dealt with appropriately. Advice and guidance can be sought from [Protect](#) (formerly Public Concern at Work), Whistleblowing Advice Line on 020 3117 2520 [website here](#) or the [ACAS](#) helpline on 0300 123 1100 [website here](#).

The Department for Business, Energy and Industrial Strategy has a published list of prescribed people and bodies' whistle blowers can approach which amongst others includes:

- Department for Education and Education and Skills Funding Authority (DfE/ESFA). (In these circumstances, the DfE/ESFA will assess whether all school processes have been applied and that the Assessor has done everything possible to resolve the issue. If this is not the case, they will refer the matter back to the Assessor);
- Ofsted;
- Member of Parliament;
- National Audit Office;
- Health and Safety Executive;
- Police.